

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #13	CCRB Case #: 201809885	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/17/2018 12:50 AM	Location of Incident: Lurting Avenue and Mace Avenue	Precinct: 49	18 Mo. SOL 5/17/2020	EO SOL 1/1/2021	
Date/Time CV Reported Mon, 11/19/2018 11:53 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 11/28/2018 11:24 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ryan Snavelly	05783	957179	049 PCT
2. SGT Roberto Bermudez	4999	938060	049 PCT
3. POM Milton Ortiz	10054	949429	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ryan Snavelly	Abuse: Police Officer Ryan Snavelly questioned § 87(2)(b) [REDACTED]	
B.POM Milton Ortiz	Abuse: Police Officer Milton Ortiz questioned § 87(2)(b) [REDACTED]	
C.POM Ryan Snavelly	Abuse: Police Officer Ryan Snavelly searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	
D.SGT Roberto Bermudez	Abuse: Sergeant Roberto Bermudez searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	

Case Summary

On November 19, 2018, § 87(2)(b) filed this complaint with IAB by phone.

On November 17, 2018, at approximately 12:50 a.m., § 87(2)(b) was driving in the vicinity of Lurting Avenue and Mace Avenue in the Bronx. § 87(2)(b)'s vehicle was stopped by Sgt. Roberto Bermudez, PO Ryan Snavelly, and PO Milton Ortiz of the 49th Precinct for a Vehicle and Traffic Law infraction. PO Snavelly and PO Ortiz questioned § 87(2)(b) (**Allegations A-B: Abuse of Authority**, § 87(2)(g)). PO Snavelly and Sgt. Bermudez searched § 87(2)(b)'s vehicle (**Allegations C-D: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was arrested as a result of this incident and was charged with § 87(2)(b) that precipitated this incident. The criminal case was adjourned in contemplation of dismissal.

Body worn camera video of the incident was obtained (BR01: Full video, BR02: Brief clip, BR03: Written summary of video contents).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Ryan Snavelly questioned § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Milton Ortiz questioned § 87(2)(b)

§ 87(2)(b) testified that he was driving and was on his way to pickup a friend when he was pulled over by officers (BR04). PO Snavelly approached on the driver's side, ordered § 87(2)(b) to provide his license and registration, and § 87(2)(b) complied. PO Snavelly asked § 87(2)(b) if he had anything in the car and if he could search the car. § 87(2)(b) told the officers that he did not care and that he did not do anything. § 87(2)(b) asked PO Snavelly why he was pulled over. § 87(2)(b) had an opaque black plastic bag with two empty cans of Monster Energy Drink hanging from the right armrest on the driver's seat. § 87(2)(b) also had another opaque plastic bag full of four water bottles on the front passenger seat. PO Ortiz, who was standing by the front passenger side window, asked § 87(2)(b) "What's in that can?" § 87(2)(b) showed PO Ortiz that he had cans of Monster Energy Drink.

Body worn camera footage of the incident showed that PO Snavelly approached the vehicle, obtained § 87(2)(b)'s license and asked § 87(2)(b) where he was going. § 87(2)(b) told PO Snavelly he was picking up a friend to give him a ride to his job. PO Snavelly asked § 87(2)(b) "Anything in the vehicle I got to know about, § 87(2)(b) Anything you think I would need to know? Nothing I should be concerned with if I check?" From the passenger side, PO Ortiz asked § 87(2)(b) "What's in the black bag? The can?" § 87(2)(b) picks up a bag and says, "Nothing." PO Ortiz says, "There's a can. Is it beer?"

PO Snavelly, PO Ortiz, and Sgt. Bermudez provided the following generally consistent testimony (BR05-07). While on routine Anti-Crime patrol, § 87(2)(b)'s vehicle was observed with a broken brake light. The vehicle was stopped solely for having committed this Vehicle and Traffic Law infraction. Upon approaching the stopped vehicle, the officers did not see anything happening inside the vehicle.

PO Snavelly acknowledged asking § 87(2)(b) if there was anything in the car he should know about. PO Snavelly explained he asks everyone this as a routine inquiry for his safety. At the point when he asked this, PO Snavelly had no reason to suspect the vehicle may have contained anything illegal.

PO Ortiz testified that while PO Snavelly was speaking with § 87(2)(b) PO Ortiz observed a black plastic bag containing opened cans hanging from one of the front seat armrests. The only thing PO Ortiz could see was the top of the cans and that they were open. PO Ortiz asked § 87(2)(b) if the cans were open containers of alcohol. PO Ortiz suspected the cans may have contained alcohol because they were cans, they were open, they were in a black bag, and he could not see what the cans were.

The common-law right of inquiry is a level of contact between officers and civilians which is activated by founded suspicion that criminality is afoot and permits a greater intrusion than a mere request for information. New York v. Hollman, 79 N.Y. 2d 181 (1992) (BR08).

Where a vehicle is stopped solely for a violation of Vehicle and Traffic law, an officer will not possess founded suspicion that criminality is afoot which would justify asking an occupant of the vehicle if they have anything illegal in the vehicle. People v. Newson, 155 A.D.3d 768 (2017) (BR09).

The presence of an open bottle or can in a bag will support an officer's suspicion that the container contains alcohol because persons carrying open containers of alcohol in public frequently conceal them. This suspicion will be further credited when what is being carried is clearly not an innocuous item such as groceries or trash. While a beer can is similar in appearance to a soft drink can, the law does not demand that all possible innocent explanations be eliminated before conduct can be considered as part of the totality of circumstances supporting a reasonable basis to believe that criminal activity may be afoot. United States v. Singletary, 798 F.3d 55 (2015) (BR10).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation C – Abuse of Authority: Police Officer Ryan Snavelly searched the vehicle in which § 87(2)(b) was an occupant.

Allegation D – Abuse of Authority: Sergeant Roberto Bermudez searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified that he exited his vehicle after being ordered to do so by PO Snively. As § 87(2)(b) got out of the vehicle he remembered that he had a knife in his pocket. § 87(2)(b) told PO Snively that he had a knife on him and pointed to where the knife was in his pocket. PO Snively told § 87(2)(b) that he knew about the knife already. PO Snively took the knife from inside § 87(2)(b)'s pocket, patted down § 87(2)(b) and handcuffed him. § 87(2)(b) did not know what PO Snively did with the knife. § 87(2)(b) was seated on the rear bumper of his vehicle facing away from his vehicle. § 87(2)(b) heard the doors of his vehicle being opened behind him. § 87(2)(b) knew his car had been searched because an officer drove his car back to the stationhouse and upon his release from custody, § 87(2)(b) noticed that items in his car had been moved around.

Body worn camera video showed that PO Snively and Sgt. Bermudez searched the main cabin of the vehicle after § 87(2)(b) was removed from the vehicle.

PO Snively testified that he observed a knife clipped to the left side of § 87(2)(b)'s waistband when § 87(2)(b) was answering PO Ortiz' questions about the cans. PO Snively ordered § 87(2)(b) to exit the vehicle. § 87(2)(b) exited and spontaneously told PO Snively, "I've got a knife on me." PO Snively told § 87(2)(b) that he knew about the knife and this was why he ordered him to exit the vehicle. PO Snively removed the knife from § 87(2)(b)'s person, tested it by flicking it open with centrifugal force, and discovered it was an illegal gravity knife. PO Snively determined § 87(2)(b) was under arrest for criminal possession of a weapon. § 87(2)(g)

PO Snively and PO Ortiz were consistent in describing that the vehicle was searched because the officers suspected there may be other weapons inside the vehicle given that § 87(2)(b) was found with the gravity knife on his person.

Sgt. Bermudez testified that the vehicle was searched per procedure for the officers' safety because it was going to be transported to the stationhouse.

When an officer discovers a weapon on an occupant of a vehicle during a vehicle stop, an officer will possess probable cause to search the vehicle for additional weapons. People v. McCoy, 266 A.D.2d 586 (1999) (BR11).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint in which § 87(2)(b) is a party (BR12).
- PO Snavelly has been a member of the service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Ortiz has been a member of the service for eight years and this is the first CCRB complaint to which he has been a subject.
- Sgt. Bermudez has been a member of the service for 13 years and has been a subject in one prior CCRB complaint involving one prior allegation which was not substantiated § 87(2)(g).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller and will be added to the case file upon its receipt (BR13).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 13

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date